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SENATE BILL 59

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Bernadette M. Sanchez

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; CREATING A DIRECT WINE SHIPMENT PERMIT; ESTABLISHING A PERMIT FEE; PROVIDING LIMITS ON THE DIRECT SHIPMENT OF WINE; SUBJECTING PERMITTEES TO TAXATION; REQUIRING LABELING OF A SHIPPED CONTAINER OF WINE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Liquor Control Act, Section 60-6A-11.1 NMSA 1978, is enacted to read:

"60-6A-11.1. [NEW MATERIAL] DIRECT WINE SHIPMENT PERMIT-- AUTHORIZATION--RESTRICTIONS.--

A. An eligible party may apply to the director for and the director may issue to an eligible party a direct wine shipment permit. An application for a direct wine shipment permit shall include:

- (1) contact information for the applicant in a

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1 form required by the department;

2 (2) an annual application fee of fifty dollars  
3 (\$50.00);

4 (3) the number of the applicant's winegrower's  
5 license or retailer's license if the applicant is located in  
6 New Mexico or a copy of the applicant's winery license or  
7 retailer's license, if the applicant is located in a state  
8 other than New Mexico; and

9 (4) any other information or documents  
10 required by the director.

11 B. A direct wine shipment permit shall be valid for  
12 a permit year. A permittee shall renew a direct wine shipment  
13 permit annually as required by the department to continue  
14 making direct shipments of wine to New Mexico residents.

15 C. The holder of a direct wine shipment permit may  
16 ship:

17 (1) not more than twenty-four nine-liter cases  
18 of wine annually to a New Mexico resident who is twenty-one  
19 years of age or older for the recipient's personal consumption  
20 or use, but not for resale; and

21 (2) wine directly to a New Mexico resident  
22 only in containers that are conspicuously labeled with the  
23 words:

24 "CONTAINS ALCOHOL

25 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

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FOR DELIVERY".

D. A permittee shall:

(1) register with the taxation and revenue department for the payment of liquor excise tax and gross receipts taxes due on the sales of wine pursuant to the permittee's activities in New Mexico;

(2) submit to the jurisdiction of New Mexico courts to resolve legal actions that arise from the shipping by the permittee of wine into New Mexico to New Mexico residents;

(3) annually, by the twenty-fifth day of July of each year following a permit year in which the permittee was issued a direct wine shipment permit, pay to the taxation and revenue department the liquor excise tax due;

(4) monthly, by the twenty-fifth day of the month after the permittee sold and shipped wine directly to a New Mexico resident pursuant to the permittee's permit, pay to the taxation and revenue department the gross receipts tax due;

(5) report to the director and to the taxation and revenue department by the twenty-fifth of July of each year following a permit year in which the permittee was issued a direct wine shipment permit, the amount of wine sold and shipped by the permittee in the prior permit year; and

(6) submit to an audit by an agent of the taxation and revenue department of the permittee's records of the wine shipped pursuant to this section to New Mexico

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1 residents upon notice and during usual business hours.

2 E. As used in this section:

3 (1) "eligible party" means a licensee with a  
4 winegrower's license or a retailer's license or a person  
5 licensed in a state other than New Mexico that holds a winery  
6 license or a retailer's license that allows the winery or  
7 retail licensee to sell wine directly to consumers;

8 (2) "permit year" means the period between  
9 July 1 and June 30 of a year; and

10 (3) "permittee" means a person that is the  
11 holder of a direct wine shipment permit."

12 Section 2. Section 60-7A-3 NMSA 1978 (being Laws 1981,  
13 Chapter 39, Section 49, as amended) is amended to read:

14 "60-7A-3. TRANSPORTATION INTO STATE WITHOUT PERMIT--  
15 EXPORTATION OF ALCOHOLIC BEVERAGES WITHOUT PERMIT--IMPORTATION  
16 FOR PRIVATE USE--RECIPROCAL SHIPPING--WHEN UNLAWFUL.--

17 A. Except as provided in Subsection E of this  
18 section, it is a violation of the Liquor Control Act for [any] a  
19 a registered common carrier to knowingly deliver [any] a  
20 shipment of alcoholic beverages from another state to [any] a  
21 person in this state without receiving at the time of delivery  
22 a permit issued by the department covering the quantity and  
23 class of alcoholic beverages to be delivered and requiring the  
24 shipment be transported from the shipper designated in the  
25 permit to the designated consignee and from the designated

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1 point of origin to the destination designated in the permit.

2 B. Except as provided in Subsections D and E of  
3 this section, it is a violation of the Liquor Control Act for  
4 ~~[any]~~ a person other than a registered common carrier to  
5 knowingly transport from another state and deliver in this  
6 state ~~[any]~~ alcoholic beverages, unless the person has in ~~[his]~~  
7 the person's possession on entering New Mexico a permit from  
8 the department for the quantity and class of alcoholic  
9 beverages to be delivered, designating the name of the shipper  
10 and consignee and the point of origin and destination of the  
11 alcoholic beverages.

12 C. Except as provided in Subsections D and E of  
13 this section, it is a violation of the Liquor Control Act for  
14 ~~[any]~~ a person to transport out of state ~~[any]~~ alcoholic  
15 beverages on which the excise tax has not been paid, unless the  
16 shipment is accompanied by a permit issued by the department  
17 for the exact quantity and class transported, showing the  
18 consignee's federal and state license numbers and the point of  
19 origin and destination of the alcoholic beverages.

20 D. ~~[Any]~~ An individual not a minor may transport  
21 into or out of the state ~~[any]~~ a reasonable amount of alcoholic  
22 beverages for the exclusive purpose of ~~[his]~~ the individual's  
23 private use or consumption, and nothing in the Liquor Control  
24 Act limits or applies to such private actions.

25 ~~[E. Any individual or licensee in a state which~~

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1 ~~affords New Mexico licensees or individuals an equal reciprocal~~  
2 ~~shipping privilege may ship for personal use and not for resale~~  
3 ~~not more than two cases of wine, each case containing no more~~  
4 ~~than nine liters, per month to any individual not a minor in~~  
5 ~~this state. Delivery of a shipment pursuant to this subsection~~  
6 ~~shall not be deemed to constitute a sale in this state and~~  
7 ~~nothing in the Liquor Control Act limits or applies to such~~  
8 ~~shipments. The shipping container of any wine sent into or out~~  
9 ~~of this state under this subsection shall be labeled clearly to~~  
10 ~~indicate that the package cannot be delivered to a minor or to~~  
11 ~~an intoxicated person.]~~

12 E. The holder of a direct wine shipment permit  
13 issued pursuant to Section 60-6A-11.1 NMSA 1978 may ship up to  
14 twenty-four nine-liter cases of wine annually to a person  
15 living in New Mexico, who is twenty-one years of age or older,  
16 for the person's personal consumption and not for resale.

17 F. As used in this section, "in this state" means  
18 within the exterior boundaries of the state."

19 Section 3. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2008.